

AMENDED IN ASSEMBLY JULY 1, 2014
AMENDED IN ASSEMBLY JUNE 18, 2014
AMENDED IN ASSEMBLY JUNE 9, 2014
AMENDED IN SENATE MAY 27, 2014
AMENDED IN SENATE MAY 6, 2014
AMENDED IN SENATE APRIL 21, 2014
AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1319

**Introduced by Senator Pavley
(Coauthors: Senators Hill, Lara, Leno, and Wolk)**

February 21, 2014

An act to amend Sections 8574.7, 8670.8, 8670.8.3, 8670.12, 8670.36, 8670.40, 8670.54, and 8670.56.6 of, and to add Sections 8670.6.5, 8670.15, 8670.29.5, and 8670.32.5 to, the Government Code, *to amend Section 25364 of the Public Resources Code*, and to amend Sections 765.5 and 7711 of the Public Utilities Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Pavley. Oil spills: oil spill prevention and response.

(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law

directs the Governor to require the administrator to amend, not in conflict with the National Contingency Plan, the California oil spill contingency plan to ~~add a marine oil spill contingency planning section containing specified elements, including an environmentally and ecologically sensitive areas element~~ *provide for the best achievable protection of waters of the state that contains specified elements, including, among others, a regional and local planning element.* Existing law also requires the administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented and requires the regulations to provide for the best achievable protection of ~~coastal and marine waters.~~ Existing law imposes ~~various administrative civil penalties on a person that violates specified provisions of the act based on whether it was an oil spill or an inland oil spill.~~ *the waters and natural resources of the state.*

~~Senate Bill 861, if enacted, would generally expand the act and the administrator's responsibilities relating to oil spills to cover all waters of the state, as defined.~~

This bill would expand the regional and local planning element of the California oil spill contingency plan to include the identification and mitigation of public health and safety impacts from an oil spill in waters of the state. The bill would authorize the administrator to obtain confidential and other information from the Office of Emergency Services, the State Energy Resources Conservation and Development Commission, and other regulators, as necessary, in order for the administrator to carry out his or her duties, and would require the administrator to develop procedures in handling the obtained information. *The bill would require the administrator to provide a program for training and certification of a local emergency responder designated as a local spill response manager by a local government with jurisdiction over or directly adjacent to waters of the state. The bill would require the administrator to offer grants to a local government with jurisdiction over or directly adjacent to waters of the state to provide oil spill response equipment to be deployed by a specified local spill response manager and to request an appropriation for this purpose.* The bill would require the administrator, no later than January 1, 2016, to conduct a study and evaluation for inland areas of the state and would require the administrator to obtain annually, at a minimum, information on the modes of transportation of oil into and within the state and the properties of the oil and to provide this information to the Oil Spill Technical Advisory Committee. The bill

would also require the administrator, in consultation with the appropriate local, state, and federal regulators, to conduct a comprehensive risk assessment of nonvessel modes of transportation oil and to identify those operations that pose the highest risk of a pollution incident in state waters, as specified, and would require the administrator to obtain and make publicly available, as specified, previously filed information related to the transport of oil through, near, or into communities, as specified. ~~The bill also would make other conforming and technical changes.~~

(2) Existing law requires the administrator, within 5 working days after receipt of a contingency plan, prepared as specified, to ~~send post~~ a notice that the plan is available for review ~~to the Oil Spill Technical Advisory Committee.~~ *review. Existing law requires the State Lands Commission and the California Coastal Commission to review the plans for facilities or local governments within the coastal zone.*

~~This bill instead would require the administrator, within 5 working days after receipt of a contingency plan, to post a notice that the plan is available for review. The bill would require the California Environmental Protection Agency and the Office of Emergency Services to review the plans for facilities and local governments located outside of the coastal zone.~~

(3) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to ~~implement oil spill prevention activities~~ *pay the reasonable regulatory costs of specified oil spill prevention activities*, but not to exceed \$0.065 per barrel of crude oil or petroleum products ~~and, beginning January 1, 2015, to an amount not to exceed \$0.05~~, on persons owning crude oil or petroleum products *received* at a marine terminal *or refinery*. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes.

~~This bill instead would require the administrator to annually determine the fee in an amount sufficient to pay the reasonable regulatory costs of specified oil spill prevention activities and would remove the fee cap of \$0.065 per barrel of crude oil or petroleum products. The bill would delete the provision that reduces the fee beginning on January 1, 2015. The bill would additionally impose this fee on a person owning crude oil at the time the crude oil is received at a refinery, as specified, by any mode of delivery that passed over, across, under, or through waters of the state, whether from within or outside the state.~~

~~This bill would require every person who operates an oil refinery, marine terminal, or a pipeline to register with the State Board of Equalization. By expanding the scope of crimes in the act, this bill would impose a state-mandated local program.~~

(4) Existing law establishes the Oil Spill Technical Advisory Committee to provide public input and independent judgment of the actions of the administrator. The committee is composed of ~~10~~ 14 members.

This bill would increase the number of members from ~~10~~ 14 to 15 and would require the ~~Speaker of the Assembly and the Senate Committee on Rules to each appoint one additional member who has knowledge of environmental protection and the study of ecosystems, and also would require the Governor to appoint 3 additional members, with one having knowledge of the railroad industry, another having knowledge of the oil production industry, and another having an~~ additional member with knowledge of the truck transportation industry.

(5) *Existing law requires, beginning November 1, 2003, and every 2 years thereafter, the State Energy Resources Conservation and Development Commission, commonly known as the California Energy Commission, to adopt an integrated energy policy report that contains an overview of certain topics including specified transportation forecasting and assessment activities. Existing law requires refiners, major marketers of petroleum products, major oil producers, oil transporters, and oil storers to submit specified information during specified periods to the commission. Existing law makes specified information collected by the commission confidential, subject to certain exceptions.*

This bill would authorize the commission to disclose specified confidential information to the administrator for oil spill response so long as the administrator for oil spill response agrees to keep that information confidential, as specified.

~~(5)~~

(6) Existing law requires the Public Utilities Commission to establish, by regulation, the inspection of railroad locomotives, equipment, and facilities occur not less frequently than every 120 days, and, in addition to those minimum inspections, that the commission conduct focused inspections of railroad yards and track, either in coordination with the Federal Railroad Administration or as the commission determines to be necessary.

This bill would expand those inspections to include bridges and grade crossings over which oil is being transported and oil unloading facilities, as specified. The bill also would authorize the commission to regulate essential local safety hazards for the transport of oil more stringently than federal regulation, as specified.

Existing law requires the commission to report to the Legislature, on or before July 1 each year, on sites on railroad lines in the state it finds to be hazardous, as specified.

This bill would expand that annual report to the Legislature to include the timing, nature, and status of the remediation of defects or violations of federal and state law related to the transport and unloading of oil detected by the commission through its inspections.

~~(6) This bill would make its provisions contingent on the enactment of SB 861 of the 2013–14 Regular Session.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~*no*.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 8574.7 of the Government Code is~~
- 2 ~~amended to read:~~
- 3 ~~8574.7. The Governor shall require the administrator, not in~~
- 4 ~~conflict with the National Contingency Plan, to amend the~~
- 5 ~~California oil spill contingency plan to provide for the best~~
- 6 ~~achievable protection of waters of the state. “Administrator” for~~
- 7 ~~purposes of this section means the administrator appointed by the~~
- 8 ~~Governor pursuant to Section 8670.4. The plan shall consist of all~~
- 9 ~~of the following elements:~~
- 10 ~~(a) A state response element that specifies the hierarchy for state~~
- 11 ~~and local agency response to an oil spill. The element shall define~~
- 12 ~~the necessary tasks for oversight and control of cleanup and~~
- 13 ~~removal activities associated with an oil spill and shall specify~~
- 14 ~~each agency’s particular responsibility in carrying out these tasks.~~
- 15 ~~The element shall also include an organizational chart of the state~~
- 16 ~~oil spill response organization and a definition of the resources;~~

1 capabilities, and response assignments of each agency involved
2 in cleanup and removal actions in an oil spill.

3 (b) ~~A regional and local planning element that shall provide the~~
4 ~~framework for the involvement of regional and local agencies in~~
5 ~~the state effort to respond to an oil spill, and shall ensure the~~
6 ~~effective and efficient use of regional and local resources, as~~
7 ~~appropriate, in all of the following:~~

8 ~~(1) Traffic and crowd control.~~

9 ~~(2) Firefighting.~~

10 ~~(3) Boating traffic control.~~

11 ~~(4) Radio and communications control and provision of access~~
12 ~~to equipment.~~

13 ~~(5) Identification and use of available local and regional~~
14 ~~equipment or other resources suitable for use in cleanup and~~
15 ~~removal actions.~~

16 ~~(6) Identification of private and volunteer resources or personnel~~
17 ~~with special or unique capabilities relating to oil spill cleanup and~~
18 ~~removal actions.~~

19 ~~(7) Provision of medical emergency services.~~

20 ~~(8) Identification and mitigation of public health and safety~~
21 ~~impacts.~~

22 ~~(9) Consideration of the identification and use of private working~~
23 ~~craft and mariners, including commercial fishing vessels and~~
24 ~~licensed commercial fishing men and women, in containment,~~
25 ~~cleanup, and removal actions.~~

26 (c) ~~A coastal protection element that establishes the state~~
27 ~~standards for coastline protection. The administrator, in~~
28 ~~consultation with the Coast Guard and Navy and the shipping~~
29 ~~industry, shall develop criteria for coastline protection. If~~
30 ~~appropriate, the administrator shall consult with representatives~~
31 ~~from the States of Alaska, Washington, and Oregon, the Province~~
32 ~~of British Columbia in Canada, and the Republic of Mexico. The~~
33 ~~criteria shall designate at least all of the following:~~

34 ~~(1) Appropriate shipping lanes and navigational aids for tankers,~~
35 ~~barges, and other commercial vessels to reduce the likelihood of~~
36 ~~collisions between tankers, barges, and other commercial vessels.~~
37 ~~Designated shipping lanes shall be located off the coastline at a~~
38 ~~distance sufficient to significantly reduce the likelihood that~~
39 ~~disabled vessels will run aground along the coast of the state.~~

40 ~~(2) Ship position reporting and communications requirements.~~

1 ~~(3) Required predeployment of protective equipment for~~
2 ~~sensitive environmental areas along the coastline.~~

3 ~~(4) Required emergency response vessels that are capable of~~
4 ~~preventing disabled tankers from running aground.~~

5 ~~(5) Required emergency response vessels that are capable of~~
6 ~~commencing oil cleanup operations before spilled oil can reach~~
7 ~~the shoreline.~~

8 ~~(6) An expedited decisionmaking process for dispersant use in~~
9 ~~coastal waters. Prior to adoption of the process, the administrator~~
10 ~~shall ensure that a comprehensive testing program is carried out~~
11 ~~for any dispersant proposed for use in California marine waters.~~
12 ~~The testing program shall evaluate toxicity and effectiveness of~~
13 ~~the dispersants.~~

14 ~~(7) Required rehabilitation facilities for wildlife injured by~~
15 ~~spilled oil.~~

16 ~~(8) An assessment of how activities that usually require a permit~~
17 ~~from a state or local agency may be expedited or issued by the~~
18 ~~administrator in the event of an oil spill.~~

19 ~~(d) An environmentally and ecologically sensitive areas element~~
20 ~~that shall provide the framework for prioritizing and ensuring the~~
21 ~~protection of environmentally and ecologically sensitive areas.~~
22 ~~The environmentally and ecologically sensitive areas element shall~~
23 ~~be developed by the administrator, in conjunction with appropriate~~
24 ~~local agencies, and shall include all of the following:~~

25 ~~(1) Identification and prioritization of environmentally and~~
26 ~~ecologically sensitive areas in state waters and along the coast.~~
27 ~~Identification and prioritization of environmentally and ecologically~~
28 ~~sensitive areas shall not prevent or excuse the use of all reasonably~~
29 ~~available containment and cleanup resources from being used to~~
30 ~~protect every environmentally and ecologically sensitive area~~
31 ~~possible. Environmentally and ecologically sensitive areas shall~~
32 ~~be prioritized through the evaluation of criteria, including, but not~~
33 ~~limited to, all of the following:~~

34 ~~(A) Risk of contamination by oil after a spill.~~

35 ~~(B) Environmental, ecological, recreational, and economic~~
36 ~~importance.~~

37 ~~(C) Risk of public exposure should the area be contaminated.~~

38 ~~(2) Regional maps depicting environmentally and ecologically~~
39 ~~sensitive areas in state waters or along the coast that shall be~~
40 ~~distributed to facilities and local and state agencies. The maps shall~~

1 ~~designate those areas that have particularly high priority for~~
2 ~~protection against oil spills.~~

3 ~~(3) A plan for protection actions required to be taken in the~~
4 ~~event of an oil spill for each of the environmentally and~~
5 ~~ecologically sensitive areas and protection priorities for the first~~
6 ~~24 to 48 hours after an oil spill shall be specified.~~

7 ~~(4) The location of available response equipment and the~~
8 ~~availability of trained personnel to deploy the equipment to protect~~
9 ~~the priority environmentally and ecologically sensitive areas.~~

10 ~~(5) A program for systemically testing and revising, if necessary,~~
11 ~~protection strategies for each of the priority environmentally and~~
12 ~~ecologically sensitive areas.~~

13 ~~(6) Any recommendations for action that cannot be financed or~~
14 ~~implemented pursuant to existing authority of the administrator,~~
15 ~~which shall also be reported to the Legislature along with~~
16 ~~recommendations for financing those actions.~~

17 ~~(e) A reporting element that requires the reporting of oil spills~~
18 ~~of any amount of oil into state waters.~~

19 *SECTION 1. Section 8574.7 of the Government Code is*
20 *amended to read:*

21 8574.7. The Governor shall require the administrator, not in
22 conflict with the National Contingency Plan, to amend the
23 California oil spill contingency plan to provide for the best
24 achievable protection of waters of the state. "Administrator" for
25 purposes of this section means the administrator appointed by the
26 Governor pursuant to Section 8670.4. The plan shall consist of all
27 of the following elements:

28 (a) A state response element that specifies the hierarchy for state
29 and local agency response to an oil spill. The element shall define
30 the necessary tasks for oversight and control of cleanup and
31 removal activities associated with an oil spill and shall specify
32 each agency's particular responsibility in carrying out these tasks.
33 The element shall also include an organizational chart of the state
34 oil spill response organization and a definition of the resources,
35 capabilities, and response assignments of each agency involved
36 in cleanup and removal actions in an oil spill.

37 (b) A regional and local planning element that shall provide the
38 framework for the involvement of regional and local agencies in
39 the state effort to respond to an oil spill, and shall ensure the

1 effective and efficient use of regional and local resources, as
2 appropriate, in all of the following:

3 (1) Traffic and crowd control.

4 (2) Firefighting.

5 (3) Boating traffic control.

6 (4) Radio and communications control and provision of access
7 to equipment.

8 (5) Identification and use of available local and regional
9 equipment or other resources suitable for use in cleanup and
10 removal actions.

11 (6) Identification of private and volunteer resources or personnel
12 with special or unique capabilities relating to oil spill cleanup and
13 removal actions.

14 (7) Provision of medical emergency services.

15 (8) *Identification and mitigation of public health and safety*
16 *impacts.*

17 ~~(8)~~

18 (9) Consideration of the identification and use of private working
19 craft and mariners, including commercial fishing vessels and
20 licensed commercial fishing men and women, in containment,
21 cleanup, and removal actions.

22 (c) A coastal protection element that establishes the state
23 standards for coastline protection. The administrator, in
24 consultation with the Coast Guard and Navy and the shipping
25 industry, shall develop criteria for coastline protection. If
26 appropriate, the administrator shall consult with representatives
27 from the States of Alaska, Washington, and Oregon, the Province
28 of British Columbia in Canada, and the Republic of Mexico. The
29 criteria shall designate at least all of the following:

30 (1) Appropriate shipping lanes and navigational aids for tankers,
31 barges, and other commercial vessels to reduce the likelihood of
32 collisions between tankers, barges, and other commercial vessels.
33 Designated shipping lanes shall be located off the coastline at a
34 distance sufficient to significantly reduce the likelihood that
35 disabled vessels will run aground along the coast of the state.

36 (2) Ship position reporting and communications requirements.

37 (3) Required predeployment of protective equipment for
38 sensitive environmental areas along the coastline.

39 (4) Required emergency response vessels that are capable of
40 preventing disabled tankers from running aground.

1 (5) Required emergency response vessels that are capable of
2 commencing oil cleanup operations before spilled oil can reach
3 the shoreline.

4 (6) An expedited decisionmaking process for dispersant use in
5 coastal waters. Prior to adoption of the process, the administrator
6 shall ensure that a comprehensive testing program is carried out
7 for any dispersant proposed for use in California marine waters.
8 The testing program shall evaluate toxicity and effectiveness of
9 the dispersants.

10 (7) Required rehabilitation facilities for wildlife injured by
11 spilled oil.

12 (8) An assessment of how activities that usually require a permit
13 from a state or local agency may be expedited or issued by the
14 administrator in the event of an oil spill.

15 (d) An environmentally and ecologically sensitive areas element
16 that shall provide the framework for prioritizing and ensuring the
17 protection of environmentally and ecologically sensitive areas.
18 The environmentally and ecologically sensitive areas element shall
19 be developed by the administrator, in conjunction with appropriate
20 local agencies, and shall include all of the following:

21 (1) Identification and prioritization of environmentally and
22 ecologically sensitive areas in state waters and along the coast.
23 Identification and prioritization of environmentally and ecologically
24 sensitive areas shall not prevent or excuse the use of all reasonably
25 available containment and cleanup resources from being used to
26 protect every environmentally and ecologically sensitive area
27 possible. Environmentally and ecologically sensitive areas shall
28 be prioritized through the evaluation of criteria, including, but not
29 limited to, all of the following:

30 (A) Risk of contamination by oil after a spill.

31 (B) Environmental, ecological, recreational, and economic
32 importance.

33 (C) Risk of public exposure should the area be contaminated.

34 (2) Regional maps depicting environmentally and ecologically
35 sensitive areas in state waters or along the coast that shall be
36 distributed to facilities and local and state agencies. The maps shall
37 designate those areas that have particularly high priority for
38 protection against oil spills.

39 (3) A plan for protection actions required to be taken in the
40 event of an oil spill for each of the environmentally and

1 ecologically sensitive areas and protection priorities for the first
2 24 to 48 hours after an oil spill shall be specified.

3 (4) The location of available response equipment and the
4 availability of trained personnel to deploy the equipment to protect
5 the priority environmentally and ecologically sensitive areas.

6 (5) A program for systemically testing and revising, if necessary,
7 protection strategies for each of the priority environmentally and
8 ecologically sensitive areas.

9 (6) Any recommendations for action that cannot be financed or
10 implemented pursuant to existing authority of the administrator,
11 which shall also be reported to the Legislature along with
12 recommendations for financing those actions.

13 (e) A reporting element that requires the reporting of spills of
14 any amount of oil in or on state waters.

15 SEC. 2. Section 8670.6.5 is added to the Government Code,
16 to read:

17 8670.6.5. The administrator may obtain confidential and other
18 information protected from public disclosure from the Office of
19 Emergency Services, the State Energy Resources Conservation
20 and Development Commission, and other regulators, as necessary,
21 in order for the administrator to carry out his or her duties. The
22 administrator shall develop procedures for handling the obtained
23 information consistent with the California Public Records Act
24 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
25 Title 4) 1), *Section 25364 of the Public Resources Code*, and
26 federal law.

27 ~~SEC. 3. Section 8670.8 of the Government Code is amended~~
28 ~~to read:~~

29 ~~8670.8. (a) The administrator shall carry out programs to~~
30 ~~provide training for individuals in response, containment, and~~
31 ~~cleanup operations and equipment, equipment deployment, and~~
32 ~~the planning and management of these programs. These programs~~
33 ~~may include training for members of the California Conservation~~
34 ~~Corps, other response personnel employed by the state, personnel~~
35 ~~employed by other public entities, personnel from marine facilities,~~
36 ~~commercial fishermen and other mariners, and interested members~~
37 ~~of the public. Training may be offered for volunteers.~~

38 ~~(b) The administrator may offer training to anyone who is~~
39 ~~required to take part in response and cleanup efforts under the~~

~~California oil spill contingency plan or under local government contingency plans prepared and approved under this chapter.~~

~~(e) Upon request by a local government, the administrator shall provide a program for training and certification of a local emergency responder designated as a local spill response manager by a local government with jurisdiction over or directly adjacent to waters of the state.~~

~~(d) Trained and certified local spill response managers shall participate in all drills upon request of the administrator.~~

~~(e) As part of the training and certification program, the administrator shall authorize a local spill response manager to train and certify volunteers.~~

~~(f) In the event of an oil spill, local spill response managers trained and certified pursuant to subdivision (e) shall provide the state on scene coordinator with timely information on activities and resources deployed by local government in response to the oil spill. The local spill response manager shall cooperate with the administrator and respond in a manner consistent with the area contingency plan to the extent possible.~~

~~(g) Funding for activities undertaken pursuant to subdivisions (a) to (c), inclusive, shall be from the Oil Spill Prevention and Administration Fund created pursuant to Section 8670.38.~~

~~(h) All training provided by the administrator shall follow the requirements of applicable federal and state occupational safety and health standards adopted by the Occupational Safety and Health Administration of the Department of Labor and the Occupational Safety and Health Standards Board.~~

SEC. 3. Section 8670.8 of the Government Code is amended to read:

8670.8. (a) The administrator shall carry out programs to provide training for individuals in response, containment, and cleanup operations and equipment, equipment deployment, and the planning and management of these programs. These programs may include training for members of the California Conservation Corps, other response personnel employed by the state, personnel employed by other public entities, personnel from marine facilities, commercial fishermen and other mariners, and interested members of the public. Training may be offered for volunteers.

(b) The administrator may offer training to anyone who is required to take part in response and cleanup efforts under the

1 California oil spill contingency plan or under local government
2 contingency plans prepared and approved under this chapter.

3 (c) Upon request by a local government, the administrator ~~may~~
4 *shall* provide a program for training and certification of a local
5 emergency responder designated as a local spill response manager
6 by a local government with jurisdiction over or directly adjacent
7 to waters of the state.

8 (d) Trained and certified local spill response managers shall
9 participate in all drills upon request of the administrator.

10 (e) As part of the training and certification program, the
11 administrator shall authorize a local spill response manager to train
12 and certify volunteers.

13 (f) In the event of an oil spill, local spill response managers
14 trained and certified pursuant to subdivision (c) shall provide the
15 state onscene coordinator with timely information on activities
16 and resources deployed by local government in response to the oil
17 spill. The local spill response manager shall cooperate with the
18 administrator and respond in a manner consistent with the area
19 contingency plan to the extent possible.

20 (g) Funding for activities undertaken pursuant to subdivisions
21 (a) to (c), inclusive, shall be from the Oil Spill Prevention and
22 Administration Fund created pursuant to Section 8670.38.

23 (h) All training provided by the administrator shall follow the
24 requirements of applicable federal and state occupational safety
25 and health standards adopted by the Occupational Safety and
26 Health Administration of the Department of Labor and the
27 Occupational Safety and Health Standards Board.

28 ~~SEC. 4. Section 8670.8.3 of the Government Code is amended~~
29 ~~to read:~~

30 ~~8670.8.3. The administrator shall offer grants to a local~~
31 ~~government with jurisdiction over or directly adjacent to waters~~
32 ~~of the state to provide oil spill response equipment to be deployed~~
33 ~~by a local spill response manager certified pursuant to Section~~
34 ~~8670.8. The administrator shall request the Legislature to~~
35 ~~appropriate funds from the Oil Spill Prevention and Administration~~
36 ~~Fund created pursuant to Section 8670.38 for the purposes of this~~
37 ~~section.~~

38 *SEC. 4. Section 8670.8.3 of the Government Code is amended*
39 *to read:*

1 8670.8.3. The administrator ~~may~~ *shall* offer grants to a local
2 government with jurisdiction over or directly adjacent to waters
3 of the state to provide oil spill response equipment to be deployed
4 by a local spill response manager certified pursuant to Section
5 8670.8. The administrator ~~may~~ *shall* request the Legislature to
6 appropriate funds from the Oil Spill Prevention and Administration
7 Fund created pursuant to Section 8670.38 for the purposes of this
8 section.

9 ~~SEC. 5. Section 8670.12 of the Government Code is amended~~
10 ~~to read:~~

11 ~~8670.12. (a) (1) The administrator shall conduct studies and~~
12 ~~evaluations necessary for improving oil spill response, containment,~~
13 ~~and cleanup and oil spill wildlife rehabilitation in waters of the~~
14 ~~state and oil transportation systems. The administrator may expend~~
15 ~~moneys from the Oil Spill Prevention and Administration Fund~~
16 ~~created pursuant to Section 8670.38, enter into consultation~~
17 ~~agreements, and acquire necessary equipment and services for the~~
18 ~~purpose of carrying out these studies and evaluations.~~

19 ~~(2) On or before January 1, 2016, the administrator shall conduct~~
20 ~~a study and evaluation pursuant to paragraph (1) for inland areas~~
21 ~~of the state. The study and evaluation shall include, but shall not~~
22 ~~be limited to, an analysis of likely spill scenarios, response~~
23 ~~requirements for oil of varying properties and urban, rural, and~~
24 ~~sensitive environments, and spill response equipment and~~
25 ~~resources.~~

26 ~~(b) The administrator shall study the use and effects of~~
27 ~~dispersants, incineration, bioremediation, and any other methods~~
28 ~~used to respond to a spill. The study shall periodically be updated~~
29 ~~to ensure the best achievable protection from the use of those~~
30 ~~methods. Based upon substantial evidence in the record, the~~
31 ~~administrator may determine in individual cases that best~~
32 ~~achievable protection is provided by establishing requirements~~
33 ~~that provide the greatest degree of protection achievable without~~
34 ~~imposing costs that significantly outweigh the incremental~~
35 ~~protection that would otherwise be provided. The studies shall do~~
36 ~~all of the following:~~

37 ~~(1) Evaluate the effectiveness of dispersants and other chemical~~
38 ~~agents in oil spill response under varying environmental conditions.~~

39 ~~(2) Evaluate potential adverse impacts on the environment and~~
40 ~~public health including, but not limited to, adverse toxic impacts~~

1 ~~on water quality, fisheries, and wildlife with consideration to~~
2 ~~bioaccumulation and synergistic impacts, and the potential for~~
3 ~~human exposure, including skin contact and consumption of~~
4 ~~contaminated seafood.~~

5 ~~(3) Recommend appropriate uses and limitations on the use of~~
6 ~~dispersants and other chemical agents to ensure they are used only~~
7 ~~in situations where the administrator determines they are effective~~
8 ~~and safe.~~

9 ~~(e) The administrator shall evaluate the feasibility of using~~
10 ~~commercial fishermen and other mariners for oil spill containment~~
11 ~~and cleanup. The study shall examine the following:~~

12 ~~(1) Equipment and technology needs.~~

13 ~~(2) Coordination with private response personnel.~~

14 ~~(3) Liability and insurance.~~

15 ~~(4) Compensation.~~

16 ~~(d) The studies shall be performed in conjunction with any~~
17 ~~studies performed by federal, state, and international entities. The~~
18 ~~administrator may enter into contracts for the studies.~~

19 *SEC. 5. Section 8670.12 of the Government Code is amended*
20 *to read:*

21 8670.12. (a) (1) The administrator shall conduct studies and
22 evaluations necessary for improving oil spill response, containment,
23 and cleanup and oil spill wildlife rehabilitation in waters of the
24 state and oil transportation systems. The administrator may expend
25 moneys from the Oil Spill Prevention and Administration Fund
26 created pursuant to Section 8670.38, enter into consultation
27 agreements, and acquire necessary equipment and services for the
28 purpose of carrying out these studies and evaluations.

29 (2) *On or before January 1, 2016, the administrator shall*
30 *conduct a study and evaluation pursuant to paragraph (1) for*
31 *inland areas of the state. The study and evaluation shall include,*
32 *but shall not be limited to, an analysis of likely spill scenarios,*
33 *response requirements for oil of varying properties and urban,*
34 *rural, and sensitive environments, and spill response equipment*
35 *and resources.*

36 (b) The administrator shall study the use and effects of
37 dispersants, incineration, bioremediation, and any other methods
38 used to respond to a spill. The study shall periodically be updated
39 to ensure the best achievable protection from the use of those
40 methods. Based upon substantial evidence in the record, the

1 administrator may determine in individual cases that best
2 achievable protection is provided by establishing requirements
3 that provide the greatest degree of protection achievable without
4 imposing costs that significantly outweigh the incremental
5 protection that would otherwise be provided. The studies shall do
6 all of the following:

7 (1) Evaluate the effectiveness of dispersants and other chemical
8 agents in oil spill response under varying environmental conditions.

9 (2) Evaluate potential adverse impacts on the environment and
10 public health including, but not limited to, adverse toxic impacts
11 on water quality, fisheries, and wildlife with consideration to
12 bioaccumulation and synergistic impacts, and the potential for
13 human exposure, including skin contact and consumption of
14 contaminated seafood.

15 (3) Recommend appropriate uses and limitations on the use of
16 dispersants and other chemical agents to ensure they are used only
17 in situations where the administrator determines they are effective
18 and safe.

19 (c) The administrator shall evaluate the feasibility of using
20 commercial fishermen and other mariners for oil spill containment
21 and cleanup. The study shall examine the following:

22 (1) Equipment and technology needs.

23 (2) Coordination with private response personnel.

24 (3) Liability and insurance.

25 (4) Compensation.

26 (d) The studies shall be performed in conjunction with any
27 studies performed by federal, state, and international entities. The
28 administrator may enter into contracts for the studies.

29 SEC. 6. Section 8670.15 is added to the Government Code, to
30 read:

31 8670.15. (a) To the extent allowed by federal and state law
32 and to provide public transparency, the Legislature declares it is
33 the policy of the state that communities that face significant risks
34 associated with the transport or planned transport of significant
35 quantities of oil through or near those communities be notified of
36 the quantities and properties of the oil in a timely manner.

37 (b) The administrator shall obtain and make publicly available,
38 as allowed pursuant to the California Public Records Act (Chapter
39 3.5 (commencing with Section 6250) of Division 7 of Title 1) and
40 federal law, previously filed information related to the transport

1 of oil through, near, or into communities. The previously filed
2 information shall include the type and quantity of oil and its mode
3 of transport. The previously filed information shall be obtained
4 annually, at a minimum, and shall cover the immediately preceding
5 12-month period.

6 (c) For purposes of this section, “*transport*” includes transport
7 or planned transport by vessel, truck, railroad, or pipeline.

8 SEC. 7. Section 8670.29.5 is added to the Government Code,
9 to read:

10 8670.29.5. (a) The administrator shall obtain annually, at a
11 minimum, information on the modes of transportation of oil into
12 and within the state and the properties of the oil in order to evaluate
13 and identify any necessary changes in oil spill response and
14 preparedness programs to meet the goals of this chapter.

15 (b) The administrator shall provide this information to the Oil
16 Spill Technical Advisory Committee, established pursuant to
17 Section 8670.54.

18 SEC. 8. Section 8670.32.5 is added to the Government Code,
19 to read:

20 8670.32.5. The administrator, in consultation with the
21 appropriate local, state, and federal regulators, shall conduct a
22 comprehensive risk assessment of nonvessel modes of
23 transportation of oil and shall identify those operations that pose
24 the highest risk of a pollution incident in state waters. The
25 assessment shall include a consideration of the likely range in
26 properties of the oil.

27 ~~SEC. 9. Section 8670.36 of the Government Code is amended~~
28 ~~to read:~~

29 ~~8670.36. The administrator shall, within five working days~~
30 ~~after receipt of a contingency plan prepared pursuant to Section~~
31 ~~8670.28 or 8670.35, post a notice that the plan is available for~~
32 ~~review. The administrator shall send a copy of the plan within two~~
33 ~~working days after receiving a request from the Oil Spill Technical~~
34 ~~Advisory Committee. The State Lands Commission and the~~
35 ~~California Coastal Commission shall review the plans for facilities~~
36 ~~or local governments within the coastal zone. The San Francisco~~
37 ~~Bay Conservation and Development Commission shall review the~~
38 ~~plans for facilities or local governments within the area described~~
39 ~~in Sections 66610 and 29101 of the Public Resources Code. The~~
40 ~~California Environmental Protection Agency and the Office of~~

~~Emergency Services shall review the plans for facilities or local governments located outside of the coastal zone. Any state agency or committee that comments shall submit its comments to the administrator within 15 days of receipt of the plan. The administrator shall consider all comments.~~

SEC. 9. Section 8670.36 of the Government Code is amended to read:

8670.36. The administrator shall, within five working days after receipt of a contingency plan prepared pursuant to Section 8670.28 or 8670.35, post a notice that the plan is available for review. The administrator shall send a copy of the plan within two working days after receiving a request from the Oil Spill Technical Advisory Committee. The State Lands Commission and the California Coastal Commission shall review the plans for facilities or local governments within the coastal zone. The San Francisco Bay Conservation and Development Commission shall review the plans for facilities or local governments within the area described in Sections 66610 and 29101 of the Public Resources Code. *The California Environmental Protection Agency and the Office of Emergency Services shall review the plans for facilities or local governments located outside of the coastal zone.* Any state agency or committee that comments shall submit its comments to the administrator within 15 days of receipt of the plan. The administrator shall consider all comments.

~~SEC. 10. Section 8670.40 of the Government Code is amended to read:~~

~~8670.40. (a) The State Board of Equalization shall collect a fee in an amount annually determined by the administrator to be sufficient to pay the reasonable regulatory costs to carry out the purposes set forth in subdivision (c), and a reasonable reserve for contingencies. The oil spill prevention and administration fee shall be based on each barrel of crude oil or petroleum products, as described in subdivision (b).~~

~~(b) (1) The oil spill prevention and administration fee shall be imposed upon a person owning crude oil at the time that the crude oil is received at a marine terminal, by any mode of delivery that passed over, across, under, or through waters of the state, from within or outside the state, and upon a person who owns petroleum products at the time that those petroleum products are received at a marine terminal, by any mode of delivery that passed over, across,~~

1 under, or through waters of the state, from outside this state. The
2 fee shall be collected by the marine terminal operator from the
3 owner of the crude oil or petroleum products for each barrel of
4 crude oil or petroleum products received.

5 (2) The oil spill prevention and administration fee shall be
6 imposed upon a person owning crude oil at the time the crude oil
7 is received at a refinery within the state by any mode of delivery
8 that passed over, across, under, or through waters of the state,
9 whether from within or outside the state. The refinery shall collect
10 the fee from the owner of the crude oil for each barrel of crude oil
11 or petroleum products received.

12 (3) The fees shall be remitted to the State Board of Equalization
13 by the owner of the crude oil or petroleum products, the refinery
14 operator, or the marine terminal operator on the 25th day of the
15 month based upon the number of barrels of crude oil or petroleum
16 products received at a refinery or marine terminal during the
17 preceding month. A fee shall not be imposed pursuant to this
18 section with respect to crude oil or petroleum products if the person
19 who would be liable for that fee, or responsible for its collection,
20 establishes that the fee has already been collected by a refinery or
21 marine terminal operator registered under this chapter or paid to
22 the State Board of Equalization with respect to the crude oil or
23 petroleum product.

24 (4) The oil spill prevention and administration fee shall not be
25 collected by a marine terminal operator or refinery operator or
26 imposed on the owner of crude oil or petroleum products if the fee
27 has been previously collected or paid on the crude oil or petroleum
28 products at another marine terminal or refinery. It shall be the
29 obligation of the marine terminal operator, refinery operator, or
30 owner of crude oil or petroleum products to show that the fee has
31 already been paid on the same crude oil or petroleum products.

32 (5) An owner of crude oil or petroleum products is liable for
33 the fee until it has been paid to the State Board of Equalization,
34 except that payment to a refinery operator or marine terminal
35 operator registered under this chapter is sufficient to relieve the
36 owner from further liability for the fee.

37 (6) On or before January 20, the administrator shall annually
38 prepare a plan that projects revenues and expenses over three fiscal
39 years, including the current year. Based on the plan, the
40 administrator shall set the fee so that projected revenues, including

1 any interest, are equivalent to expenses as reflected in the current
2 Budget Act and in the proposed budget submitted by the Governor.
3 In setting the fee, the administrator may allow for a surplus if the
4 administrator finds that revenues will be exhausted during the
5 period covered by the plan or that the surplus is necessary to cover
6 possible contingencies. The administrator shall notify the State
7 Board of Equalization of the adjusted fee rate, which shall be
8 rounded to no more than four decimal places, to be effective the
9 first day of the month beginning not less than 30 days from the
10 date of the notification.

11 (e) ~~The moneys collected pursuant to subdivision (a) shall be~~
12 ~~deposited into the fund.~~

13 (d) ~~The State Board of Equalization shall collect the fee and~~
14 ~~adopt regulations for implementing the fee collection program.~~

15 (e) ~~The fee described in this section shall be collected solely~~
16 ~~for all of the following purposes:~~

17 (1) ~~To implement oil spill prevention programs through rules,~~
18 ~~regulations, leasing policies, guidelines, and inspections and to~~
19 ~~implement research into prevention and control technology.~~

20 (2) ~~To carry out studies that may lead to improved oil spill~~
21 ~~prevention and response.~~

22 (3) ~~To finance environmental and economic studies relating to~~
23 ~~the effects of oil spills.~~

24 (4) ~~To implement, install, and maintain emergency programs,~~
25 ~~equipment, and facilities to respond to, contain, and clean up oil~~
26 ~~spills and to ensure that those operations will be carried out as~~
27 ~~intended.~~

28 (5) ~~To reimburse the State Board of Equalization for its~~
29 ~~reasonable costs incurred to implement this chapter and to carry~~
30 ~~out Part 24 (commencing with Section 46001) of Division 2 of the~~
31 ~~Revenue and Taxation Code.~~

32 (6) ~~To fund the Oiled Wildlife Care Network pursuant to Section~~
33 ~~8670.40.5.~~

34 (f) ~~The moneys deposited in the fund shall not be used for~~
35 ~~responding to a spill.~~

36 (g) ~~The moneys deposited in the fund shall not be used to~~
37 ~~provide a loan to any other fund.~~

38 (h) ~~Every person who operates a refinery, a marine terminal in~~
39 ~~waters of the state, or a pipeline shall register with the State Board~~

1 of Equalization, pursuant to Section 46101 of the Revenue and
2 Taxation Code.

3 *SEC. 10. Section 8670.40 of the Government Code is amended*
4 *to read:*

5 8670.40. (a) The State Board of Equalization shall collect a
6 fee in an amount *annually* determined by the administrator to be
7 sufficient to pay the reasonable regulatory costs to carry out the
8 purposes set forth in subdivision (e), and a reasonable reserve for
9 contingencies. ~~The annual assessment shall not exceed six and~~
10 ~~one-half cents (\$0.065) per barrel of crude oil or petroleum~~
11 ~~products. The oil spill prevention and administration fee shall be~~
12 ~~based on each barrel of crude oil or petroleum products, as~~
13 ~~described in subdivision (b).~~

14 (b) (1) The oil spill prevention and administration fee shall be
15 imposed upon a person owning crude oil at the time that the crude
16 oil is received at a marine terminal, by any mode of delivery that
17 passed over, across, under, or through waters of the state, from
18 within or outside the state, and upon a person who owns petroleum
19 products at the time that those petroleum products are received at
20 a marine terminal, by any mode of delivery that passed over, across,
21 under, or through waters of the state, from outside this state. The
22 fee shall be collected by the marine terminal operator from the
23 owner of the crude oil or petroleum products for each barrel of
24 crude oil or petroleum products received.

25 (2) The oil spill prevention and administration fee shall be
26 imposed upon a person owning crude oil or petroleum products at
27 the time that the crude oil or petroleum products are received at a
28 refinery within the state by any mode of delivery that passed over,
29 across, under, or through waters of the state, whether from within
30 or outside the state. The refinery shall collect the fee from the
31 owner of the crude oil or petroleum products for each barrel
32 received.

33 (3) (A) There is a rebuttable presumption that crude oil or
34 petroleum products received at a marine terminal or a refinery
35 have passed over, across, under, or through waters of the state.
36 This presumption may be overcome by a marine terminal operator,
37 refinery operator, or owner of the crude oil or petroleum products
38 by showing that the crude oil or petroleum products did not pass
39 over, across, under, or through waters of the state. Evidence to
40 rebut the presumption may include, but shall not be limited to,

1 documentation, including shipping documents, bills of lading,
2 highway maps, rail maps, transportation maps, related
3 transportation receipts, or another medium that shows the crude
4 oil or petroleum products did not pass over, across, under, or
5 through waters of the state.

6 (B) Notwithstanding the petition for redetermination and claim
7 for refund provisions of the Oil Spill Response, Prevention, and
8 Administration Fees Law (Part 24 (commencing with Section
9 46001) of Division 2 of the Revenue and Taxation Code), the State
10 Board of Equalization shall not do either of the following:

11 (i) Accept or consider a petition for redetermination of fees
12 determined pursuant to this section if the petition is founded upon
13 the grounds that the crude oil or petroleum products did or did not
14 pass over, across, under, or through waters of the state.

15 (ii) Accept or consider a claim for a refund of fees paid pursuant
16 to this section if the claim is founded upon the grounds that the
17 crude oil or petroleum products did or did not pass over, across,
18 under, or through waters of the state.

19 (C) The State Board of Equalization shall forward to the
20 administrator an appeal of a redetermination or a claim for a refund
21 of fees that is based on the grounds that the crude oil or petroleum
22 products did or did not pass over, across, under, or through waters
23 of the state.

24 (4) The fees shall be remitted to the State Board of Equalization
25 by the owner of the crude oil or petroleum products, the refinery
26 operator, or the marine terminal operator on the 25th day of the
27 month based upon the number of barrels of crude oil or petroleum
28 products received at a refinery or marine terminal during the
29 preceding month. A fee shall not be imposed pursuant to this
30 section with respect to crude oil or petroleum products if the person
31 who would be liable for that fee, or responsible for its collection,
32 establishes that the fee has already been collected by a refinery or
33 marine terminal operator registered under this chapter or paid to
34 the State Board of Equalization with respect to the crude oil or
35 petroleum product.

36 (5) The oil spill prevention and administration fee shall not be
37 collected by a marine terminal operator or refinery operator or
38 imposed on the owner of crude oil or petroleum products if the fee
39 has been previously collected or paid on the crude oil or petroleum
40 products at another marine terminal or refinery. It shall be the

1 obligation of the marine terminal operator, refinery operator, or
2 owner of crude oil or petroleum products to demonstrate that the
3 fee has already been paid on the same crude oil or petroleum
4 products.

5 (6) An owner of crude oil or petroleum products is liable for
6 the fee until it has been paid to the State Board of Equalization,
7 except that payment to a refinery operator or marine terminal
8 operator registered under this chapter is sufficient to relieve the
9 owner from further liability for the fee.

10 (7) On or before January 20, the administrator shall annually
11 prepare a plan that projects revenues and expenses over three fiscal
12 years, including the current year. Based on the plan, the
13 administrator shall set the fee so that projected revenues, including
14 any interest and inflation, are equivalent to expenses as reflected
15 in the current Budget Act and in the proposed budget submitted
16 by the Governor. In setting the fee, the administrator may allow
17 for a surplus if the administrator finds that revenues will be
18 exhausted during the period covered by the plan or that the surplus
19 is necessary to cover possible contingencies. The administrator
20 shall notify the State Board of Equalization of the adjusted fee
21 rate, which shall be rounded to no more than four decimal places,
22 to be effective the first day of the month beginning not less than
23 30 days from the date of the notification.

24 (c) The moneys collected pursuant to subdivision (a) shall be
25 deposited into the fund.

26 (d) The State Board of Equalization shall collect the fee and
27 adopt regulations for implementing the fee collection program.

28 (e) The fee described in this section shall be collected solely
29 for all of the following purposes:

30 (1) To implement oil spill prevention programs through rules,
31 regulations, leasing policies, guidelines, and inspections and to
32 implement research into prevention and control technology.

33 (2) To carry out studies that may lead to improved oil spill
34 prevention and response.

35 (3) To finance environmental and economic studies relating to
36 the effects of oil spills.

37 (4) To implement, install, and maintain emergency programs,
38 equipment, and facilities to respond to, contain, and clean up oil
39 spills and to ensure that those operations will be carried out as
40 intended.

1 (5) To reimburse the State Board of Equalization for its
2 reasonable costs incurred to implement this chapter and to carry
3 out Part 24 (commencing with Section 46001) of Division 2 of the
4 Revenue and Taxation Code.

5 (6) To fund the Oiled Wildlife Care Network pursuant to Section
6 8670.40.5.

7 (f) The moneys deposited in the fund shall not be used for
8 responding to a spill.

9 (g) The moneys deposited in the fund shall not be used to
10 provide a loan to any other fund.

11 (h) Every person who operates a refinery, a marine terminal in
12 waters of the state, or a pipeline shall register with the State Board
13 of Equalization, pursuant to Section 46101 of the Revenue and
14 Taxation Code.

15 (i) The amendments to this section enacted in Senate Bill 861
16 of the 2013–14 Regular Session shall become operative 90 days
17 after the effective date of Senate Bill 861 of 2013–14 Regular
18 Session.

19 ~~SEC. 11. Section 8670.54 of the Government Code is amended~~
20 ~~to read:~~

21 ~~8670.54. (a) The Oil Spill Technical Advisory Committee,~~
22 ~~hereafter in this article, the committee, is hereby established to~~
23 ~~provide public input and independent judgment of the actions of~~
24 ~~the administrator. The committee shall consist of 15 members, of~~
25 ~~whom nine shall be appointed by the Governor, three by the~~
26 ~~Speaker of the Assembly, and three by the Senate Rules~~
27 ~~Committee. The appointments shall be made in the following~~
28 ~~manner:~~

29 ~~(1) The Speaker of the Assembly and Senate Committee on~~
30 ~~Rules shall each appoint a member who shall be a representative~~
31 ~~of the public.~~

32 ~~(2) The Governor shall appoint a member who has a~~
33 ~~demonstrable knowledge of marine transportation.~~

34 ~~(3) The Speaker of the Assembly and the Senate Committee on~~
35 ~~Rules shall each appoint two members who have demonstrable~~
36 ~~knowledge of environmental protection and the study of~~
37 ~~ecosystems.~~

38 ~~(4) The Governor shall appoint a member who has served as a~~
39 ~~local government elected official or who has worked for a local~~
40 ~~government.~~

1 ~~(5) The Governor shall appoint a member who has experience~~
2 ~~in oil spill response and prevention programs.~~

3 ~~(6) The Governor shall appoint a member who has been~~
4 ~~employed in the petroleum industry.~~

5 ~~(7) The Governor shall appoint a member who has worked in~~
6 ~~state government.~~

7 ~~(8) The Governor shall appoint a member who has demonstrable~~
8 ~~knowledge of the dry cargo vessel industry.~~

9 ~~(9) The Governor shall appoint a member who has demonstrable~~
10 ~~knowledge of the railroad industry.~~

11 ~~(10) The Governor shall appoint a member who has~~
12 ~~demonstrable knowledge of the oil production industry.~~

13 ~~(11) The Governor shall appoint a member who has a~~
14 ~~demonstrable knowledge of the truck transportation industry.~~

15 ~~(b) The committee shall meet as often as required, but at least~~
16 ~~twice per year. Members shall be paid one hundred dollars (\$100)~~
17 ~~per day for each meeting and all necessary travel expenses at state~~
18 ~~per diem rates.~~

19 ~~(c) The administrator and any personnel the administrator~~
20 ~~determines to be appropriate shall serve as staff to the committee.~~

21 ~~(d) A chair and vice chair shall be elected by a majority vote of~~
22 ~~the committee.~~

23 ~~SEC. 11. Section 8670.54 of the Government Code is amended~~
24 ~~to read:~~

25 8670.54. (a) The Oil Spill Technical Advisory Committee,
26 hereafter in this article, the committee, is hereby established to
27 provide public input and independent judgment of the actions of
28 the administrator. The committee shall consist of ~~14~~ 15 members,
29 of whom ~~eight~~ nine shall be appointed by the Governor, three by
30 the Speaker of the Assembly, and three by the Senate ~~Rules~~
31 ~~Committee on Rules~~. The appointments shall be made in the
32 following manner:

33 (1) The Speaker of the Assembly and Senate Committee on
34 Rules shall each appoint a member who shall be a representative
35 of the public.

36 (2) The Governor shall appoint a member who has a
37 demonstrable knowledge of marine transportation.

38 (3) The Speaker of the Assembly and the Senate Committee on
39 Rules shall each appoint two members who have demonstrable

1 knowledge of environmental protection and the study of
2 ecosystems.

3 (4) The Governor shall appoint a member who has served as a
4 local government elected official or who has worked for a local
5 government.

6 (5) The Governor shall appoint a member who has experience
7 in oil spill response and prevention programs.

8 (6) The Governor shall appoint a member who has been
9 employed in the petroleum industry.

10 (7) The Governor shall appoint a member who has worked in
11 state government.

12 (8) The Governor shall appoint a member who has demonstrable
13 knowledge of the dry cargo vessel industry.

14 (9) The Governor shall appoint a member who has demonstrable
15 knowledge of the railroad industry.

16 (10) The Governor shall appoint a member who has
17 demonstrable knowledge of the oil production industry.

18 *(11) The Governor shall appoint a member who has*
19 *demonstrable knowledge of the truck transportation industry.*

20 (b) The committee shall meet as often as required, but at least
21 twice per year. Members shall be paid one hundred dollars (\$100)
22 per day for each meeting and all necessary travel expenses at state
23 per diem rates.

24 (c) The administrator and any personnel the administrator
25 determines to be appropriate shall serve as staff to the committee.

26 (d) A chair and vice chair shall be elected by a majority vote of
27 the committee.

28 ~~SEC. 12. Section 8670.56.6 of the Government Code is~~
29 ~~amended to read:~~

30 ~~8670.56.6. (a) (1) Except as provided in subdivisions (b) and~~
31 ~~(d), and subject to subdivision (c), a person, including, but not~~
32 ~~limited to, an oil spill cooperative, its agents, subcontractors, or~~
33 ~~employees, shall not be liable under this chapter or the laws of the~~
34 ~~state to any person for costs, damages, or other claims or expenses~~
35 ~~as a result of actions taken or omitted in good faith in the course~~
36 ~~of rendering care, assistance, or advice in accordance with the~~
37 ~~National Contingency Plan, the California oil spill contingency~~
38 ~~plan, or at the direction of the administrator, onsite coordinator,~~
39 ~~or the Coast Guard in response to a spill or threatened spill.~~

1 ~~(2) The qualified immunity under this section shall not apply~~
2 ~~to any oil spill response action that is inconsistent with the~~
3 ~~following:~~

4 ~~(A) The directions of the unified command, consisting of at~~
5 ~~least the Coast Guard and the administrator.~~

6 ~~(B) In the absence of a unified command, the directions of the~~
7 ~~administrator pursuant to Section 8670.27.~~

8 ~~(C) In the absence of directions pursuant to subparagraph (A)~~
9 ~~or (B), applicable oil spill contingency plans implemented under~~
10 ~~this division.~~

11 ~~(3) Nothing in this section shall, in any manner or respect, affect~~
12 ~~or impair any cause of action against or any liability of any person~~
13 ~~or persons responsible for the spill, for the discharged oil, or for~~
14 ~~the vessel, terminal, pipeline, or facility from which the oil was~~
15 ~~discharged. The responsible person or persons shall remain liable~~
16 ~~for any and all damages arising from the discharge, including~~
17 ~~damages arising from improperly carried out response efforts, as~~
18 ~~otherwise provided by law.~~

19 ~~(b) Nothing in this section shall, in any manner or respect, affect~~
20 ~~or impair any cause of action against or any liability of any party~~
21 ~~or parties responsible for the spill, or the responsible party's agents,~~
22 ~~employees, or subcontractors, except persons immunized under~~
23 ~~subdivision (a) for response efforts, for the discharged oil, or for~~
24 ~~the vessel, truck, terminal, pipeline, or facility from which the oil~~
25 ~~was discharged.~~

26 ~~(c) The responsible party or parties shall be subject to both of~~
27 ~~the following:~~

28 ~~(1) Notwithstanding subdivision (b) or (i) of Section 8670.56.5,~~
29 ~~or any other law, be strictly and jointly and severally liable for all~~
30 ~~damages arising pursuant to subdivision (h) of Section 8670.56.5~~
31 ~~from the response efforts of its agents, employees, subcontractors,~~
32 ~~or an oil spill cooperative of which it is a member or with which~~
33 ~~it has a contract or other arrangement for cleanup of its oil spills,~~
34 ~~unless it would have a defense to the original spill.~~

35 ~~(2) Remain strictly liable for any and all damages arising from~~
36 ~~the response efforts of a person other than a person specified in~~
37 ~~paragraph (1).~~

38 ~~(d) Nothing in this section shall immunize a cooperative or any~~
39 ~~other person from liability for acts of gross negligence or willful~~
40 ~~misconduct in connection with the cleanup of a spill.~~

1 ~~(e) This section does not apply to any action for personal injury~~
2 ~~or wrongful death.~~

3 ~~(f) As used in this section, a “cooperative” means an~~
4 ~~organization of private persons that is established for the primary~~
5 ~~purpose and activity of preventing or rendering care, assistance,~~
6 ~~or advice in response to a spill or threatened spill.~~

7 ~~(g) Except for the responsible party, membership in a~~
8 ~~cooperative shall not be grounds, in and of itself, for liability~~
9 ~~resulting from cleanup activities of the cooperative.~~

10 ~~(h) For purposes of this section, there shall be a rebuttable~~
11 ~~presumption that an act or omission described in subdivision (a)~~
12 ~~was taken in good faith.~~

13 ~~(i) In any situation in which immunity is granted pursuant to~~
14 ~~subdivision (a) and a responsible party is not liable, is not liable~~
15 ~~for noneconomic damages caused by another, or is partially or~~
16 ~~totally insolvent, the fund provided for in Article 7 (commencing~~
17 ~~with Section 8670.46) shall reimburse, in accordance with its terms,~~
18 ~~claims of any injured party for which a person who is granted~~
19 ~~immunity pursuant to this section would otherwise be liable.~~

20 ~~(j) (1) The immunity granted by this section shall only apply~~
21 ~~to response efforts that are undertaken after the administrator~~
22 ~~certifies that contracts with qualified and responsible persons are~~
23 ~~in place to ensure an adequate and expeditious response to any~~
24 ~~foreseeable oil spill that may occur in waters of the state for which~~
25 ~~the responsible party (A) cannot be identified or (B) is unable or~~
26 ~~unwilling to respond, contain, and clean up the oil spill in an~~
27 ~~adequate and timely manner. In negotiating these contracts, the~~
28 ~~administrator shall procure, to the maximum extent practicable,~~
29 ~~the services of persons who are willing to respond to oil spills with~~
30 ~~no, or lesser, immunity than that conferred by this section, but, in~~
31 ~~no event, a greater immunity. The administrator shall make the~~
32 ~~certification required by this subdivision on an annual basis. Upon~~
33 ~~certification, the immunity conferred by this section shall apply~~
34 ~~to all response efforts undertaken during the calendar year to which~~
35 ~~the certification applies. In the absence of the certification required~~
36 ~~by this subdivision, the immunity conferred by this section shall~~
37 ~~not attach to any response efforts undertaken by any person in~~
38 ~~waters of the state.~~

39 ~~(2) In addition to the authority to negotiate contracts described~~
40 ~~in paragraph (1), the administrator may also negotiate and enter~~

1 into indemnification agreements with qualified and financially
2 responsible persons to respond to oil spills that may occur in waters
3 of the state for which the responsible party (A) cannot be identified
4 or (B) is unable or unwilling to respond, contain, and clean up the
5 oil spill in an adequate and timely manner.

6 (3) ~~The administrator may indemnify response contractors for~~
7 ~~(A) all damages payable by means of settlement or judgment that~~
8 ~~arise from response efforts to which the immunity conferred by~~
9 ~~this section would otherwise apply, and (B) reasonably related~~
10 ~~legal costs and expenses incurred by the responder, provided that~~
11 ~~indemnification shall only apply to response efforts undertaken~~
12 ~~after the expiration of any immunity that may exist as the result~~
13 ~~of the contract negotiations authorized in this subdivision. In~~
14 ~~negotiating these contracts, the administrator shall procure, to the~~
15 ~~maximum extent practicable, the services of persons who are~~
16 ~~willing to respond to oil spills with no, or as little, right to~~
17 ~~indemnification as possible. All indemnification shall be paid by~~
18 ~~the administrator from the Oil Spill Response Trust Fund.~~

19 (4) (A) ~~The contracts required by this section, and any other~~
20 ~~contracts entered into by the administrator for response,~~
21 ~~containment, or cleanup of an existing spill, or for response of an~~
22 ~~imminent threat of a spill, the payment of which is to be made~~
23 ~~from the Oil Spill Response Trust Fund created pursuant to Section~~
24 ~~8670.46, shall be exempt from Part 2 (commencing with Section~~
25 ~~10100) of Division 2 of the Public Contract Code and Article 6~~
26 ~~(commencing with Section 999) of Chapter 6 of Division 4 of the~~
27 ~~Military and Veterans Code.~~

28 (B) ~~The exemption specified in subparagraph (A) applies only~~
29 ~~to contracts for which the services are used for a period of less~~
30 ~~than 90 days, cumulatively, per year.~~

31 (C) ~~This paragraph shall not be construed as limiting the~~
32 ~~administrator's authority to exercise the emergency powers granted~~
33 ~~pursuant to subdivision (c) of Section 8670.62, including the~~
34 ~~authority to enter into emergency contracts that are exempt from~~
35 ~~approval by the Department of General Services.~~

36 (k) (1) ~~With regard to a person who is regularly engaged in the~~
37 ~~business of responding to oil spills, the immunity conferred by~~
38 ~~this section shall not apply to any response efforts by that person~~
39 ~~that occur later than 60 days after the first day the person's response~~
40 ~~efforts commence.~~

~~(2) Notwithstanding the limitation contained in paragraph (1), the administrator may extend, upon making all the following findings, the period of time, not to exceed 30 days, during which the immunity conferred by this section applies to response efforts:~~

~~(A) Due to inadequate or incomplete containment and stabilization, there exists a substantial probability that the size of the spill will significantly expand and (i) threaten previously uncontaminated resources, (ii) threaten already contaminated resources with substantial additional contamination, or (iii) otherwise endanger the public health and safety or harm the environment.~~

~~(B) The remaining work is of a difficult or perilous nature that extension of the immunity is clearly in the public interest.~~

~~(C) No other qualified and financially responsible contractor is prepared and willing to complete the response effort in the absence of the immunity, or a lesser immunity, as negotiated by contract.~~

~~(3) The administrator shall provide five days' notice of his or her proposed decision to either extend, or not extend, the immunity conferred by this section. Interested parties shall be given an opportunity to present oral and written evidence at an informal hearing. In making his or her proposed decision, the administrator shall specifically seek and consider the advice of the relevant Coast Guard representative. The administrator's decision to not extend the immunity shall be announced at least 10 working days before the expiration of the immunity to provide persons an opportunity to terminate their response efforts as contemplated by paragraph (4).~~

~~(4) A person or their agents, subcontractors, or employees shall not incur any liability under this chapter or any other provision of law solely as a result of that person's decision to terminate their response efforts because of the expiration of the immunity conferred by this section. A person's decision to terminate response efforts because of the expiration of the immunity conferred by this section shall not in any manner impair, curtail, limit, or otherwise affect the immunity conferred on the person with regard to the person's response efforts undertaken during the period of time the immunity applied to those response efforts.~~

~~(5) The immunity granted under this section shall attach, without the limitation contained in this subdivision, to the response efforts of any person who is not regularly engaged in the business of~~

1 responding to oil spills. A person who is not regularly engaged in
2 the business of responding to oil spills includes, but is not limited
3 to, (A) a person who is primarily dedicated to the preservation and
4 rehabilitation of wildlife and (B) a person who derives his or her
5 livelihood primarily from fishing.

6 ~~(f) As used in this section, “response efforts” means rendering~~
7 ~~care, assistance, or advice in accordance with the National~~
8 ~~Contingency Plan, the California oil spill contingency plan, or at~~
9 ~~the direction of the administrator, United States Environmental~~
10 ~~Protection Agency, or the Coast Guard in response to a spill or~~
11 ~~threatened spill into waters of the state.~~

12 *SEC. 12. Section 8670.56.6 of the Government Code is*
13 *amended to read:*

14 8670.56.6. (a) (1) Except as provided in subdivisions (b) and
15 (d), and subject to subdivision (c), a person, including, but not
16 limited to, an oil spill cooperative, its agents, subcontractors, or
17 employees, shall not be liable under this chapter or the laws of the
18 state to any person for costs, damages, or other claims or expenses
19 as a result of actions taken or omitted in good faith in the course
20 of rendering care, assistance, or advice in accordance with the
21 National Contingency Plan, the California oil spill contingency
22 plan, or at the direction of the administrator, onsite coordinator,
23 or the Coast Guard in response to a spill or threatened spill.

24 (2) The qualified immunity under this section shall not apply
25 to any oil spill response action that is inconsistent with the
26 following:

27 (A) The directions of the unified command, consisting of at
28 least the Coast Guard and the administrator.

29 (B) In the absence of a unified command, the directions of the
30 administrator pursuant to Section 8670.27.

31 (C) In the absence of directions pursuant to subparagraph (A)
32 or (B), applicable oil spill contingency plans implemented under
33 this division.

34 (3) Nothing in this section shall, in any manner or respect, affect
35 or impair any cause of action against or any liability of any person
36 or persons responsible for the spill, for the discharged oil, or for
37 the vessel, terminal, pipeline, or facility from which the oil was
38 discharged. The responsible person or persons shall remain liable
39 for any and all damages arising from the discharge, including

1 damages arising from improperly carried out response efforts, as
2 otherwise provided by law.

3 (b) Nothing in this section shall, in any manner or respect, affect
4 or impair any cause of action against or any liability of any party
5 or parties responsible for the spill, or the responsible party's agents,
6 employees, or subcontractors, except persons immunized under
7 subdivision (a) for response efforts, for the discharged oil, or for
8 the vessel, *truck*, terminal, pipeline, or facility from which the oil
9 was discharged.

10 (c) The responsible party or parties shall be subject to both of
11 the following:

12 (1) Notwithstanding subdivision (b) or (i) of Section 8670.56.5,
13 or any other law, be strictly and jointly and severally liable for all
14 damages arising pursuant to subdivision (h) of Section 8670.56.5
15 from the response efforts of its agents, employees, subcontractors,
16 or an oil spill cooperative of which it is a member or with which
17 it has a contract or other arrangement for cleanup of its oil spills,
18 unless it would have a defense to the original spill.

19 (2) Remain strictly liable for any and all damages arising from
20 the response efforts of a person other than a person specified in
21 paragraph (1).

22 (d) Nothing in this section shall immunize a cooperative or any
23 other person from liability for acts of gross negligence or willful
24 misconduct in connection with the cleanup of a spill.

25 (e) This section does not apply to any action for personal injury
26 or wrongful death.

27 (f) As used in this section, a "cooperative" means an
28 organization of private persons that is established for the primary
29 purpose and activity of preventing or rendering care, assistance,
30 or advice in response to a spill or threatened spill.

31 (g) Except for the responsible party, membership in a
32 cooperative shall not be grounds, in and of itself, for liability
33 resulting from cleanup activities of the cooperative.

34 (h) For purposes of this section, there shall be a rebuttable
35 presumption that an act or omission described in subdivision (a)
36 was taken in good faith.

37 (i) In any situation in which immunity is granted pursuant to
38 subdivision (a) and a responsible party is not liable, is not liable
39 for noneconomic damages caused by another, or is partially or
40 totally insolvent, the fund provided for in Article 7 (commencing

1 with Section 8670.46) shall reimburse, in accordance with its terms,
2 claims of any injured party for which a person who is granted
3 immunity pursuant to this section would otherwise be liable.

4 (j) (1) The immunity granted by this section shall only apply
5 to response efforts that are undertaken after the administrator
6 certifies that contracts with qualified and responsible persons are
7 in place to ensure an adequate and expeditious response to any
8 foreseeable oil spill that may occur in waters of the state for which
9 the responsible party (A) cannot be identified or (B) is unable or
10 unwilling to respond, contain, and clean up the oil spill in an
11 adequate and timely manner. In negotiating these contracts, the
12 administrator shall procure, to the maximum extent practicable,
13 the services of persons who are willing to respond to oil spills with
14 no, or lesser, immunity than that conferred by this section, but, in
15 no event, a greater immunity. The administrator shall make the
16 certification required by this subdivision on an annual basis. Upon
17 certification, the immunity conferred by this section shall apply
18 to all response efforts undertaken during the calendar year to which
19 the certification applies. In the absence of the certification required
20 by this subdivision, the immunity conferred by this section shall
21 not attach to any response efforts undertaken by any person in
22 waters of the state.

23 (2) In addition to the authority to negotiate contracts described
24 in paragraph (1), the administrator may also negotiate and enter
25 into indemnification agreements with qualified and financially
26 responsible persons to respond to oil spills that may occur in waters
27 of the state for which the responsible party (A) cannot be identified
28 or (B) is unable or unwilling to respond, contain, and clean up the
29 oil spill in an adequate and timely manner.

30 (3) The administrator may indemnify response contractors for
31 (A) all damages payable by means of settlement or judgment that
32 arise from response efforts to which the immunity conferred by
33 this section would otherwise apply, and (B) reasonably related
34 legal costs and expenses incurred by the responder, provided that
35 indemnification shall only apply to response efforts undertaken
36 after the expiration of any immunity that may exist as the result
37 of the contract negotiations authorized in this subdivision. In
38 negotiating these contracts, the administrator shall procure, to the
39 maximum extent practicable, the services of persons who are
40 willing to respond to oil spills with no, or as little, right to

1 indemnification as possible. All indemnification shall be paid by
2 the administrator from the Oil Spill Response Trust Fund.

3 (4) (A) The contracts required by this section, and any other
4 contracts entered into by the administrator for response,
5 containment, or cleanup of an existing spill, or for response ~~of~~ to
6 an imminent threat of a spill, the payment of which is to be made
7 from the Oil Spill Response Trust Fund created pursuant to Section
8 8670.46, shall be exempt from Part 2 (commencing with Section
9 10100) of Division 2 of the Public Contract Code and Article 6
10 (commencing with Section 999) of Chapter 6 of Division 4 of the
11 Military and Veterans Code.

12 (B) The exemption specified in subparagraph (A) applies only
13 to contracts for which the services are used for a period of less
14 than 90 days, cumulatively, per year.

15 (C) This paragraph shall not be construed as limiting the
16 administrator's authority to exercise the emergency powers granted
17 pursuant to subdivision (c) of Section 8670.62, including the
18 authority to enter into emergency contracts that are exempt from
19 approval by the Department of General Services.

20 (k) (1) With regard to a person who is regularly engaged in the
21 business of responding to oil spills, the immunity conferred by
22 this section shall not apply to any response efforts by that person
23 that occur later than 60 days after the first day the person's response
24 efforts commence.

25 (2) Notwithstanding the limitation contained in paragraph (1),
26 the administrator may extend, upon making all the following
27 findings, the period of time, not to exceed 30 days, during which
28 the immunity conferred by this section applies to response efforts:

29 (A) Due to inadequate or incomplete containment and
30 stabilization, there exists a substantial probability that the size of
31 the spill will significantly expand and (i) threaten previously
32 uncontaminated resources, (ii) threaten already contaminated
33 resources with substantial additional contamination, or (iii)
34 otherwise endanger the public health and safety or harm the
35 environment.

36 (B) The remaining work is of a difficult or perilous nature that
37 extension of the immunity is clearly in the public interest.

38 (C) No other qualified and financially responsible contractor is
39 prepared and willing to complete the response effort in the absence
40 of the immunity, or a lesser immunity, as negotiated by contract.

(3) The administrator shall provide five days' notice of his or her proposed decision to either extend, or not extend, the immunity conferred by this section. Interested parties shall be given an opportunity to present oral and written evidence at an informal hearing. In making his or her proposed decision, the administrator shall specifically seek and consider the advice of the relevant Coast Guard representative. The administrator's decision to not extend the immunity shall be announced at least 10 working days before the expiration of the immunity to provide persons an opportunity to terminate their response efforts as contemplated by paragraph (4).

(4) A person or their agents, subcontractors, or employees shall not incur any liability under this chapter or any other provision of law solely as a result of that person's decision to terminate their response efforts because of the expiration of the immunity conferred by this section. A person's decision to terminate response efforts because of the expiration of the immunity conferred by this section shall not in any manner impair, curtail, limit, or otherwise affect the immunity conferred on the person with regard to the person's response efforts undertaken during the period of time the immunity applied to those response efforts.

(5) The immunity granted under this section shall attach, without the limitation contained in this subdivision, to the response efforts of any person who is not regularly engaged in the business of responding to oil spills. A person who is not regularly engaged in the business of responding to oil spills includes, but is not limited to, (A) a person who is primarily dedicated to the preservation and rehabilitation of wildlife and (B) a person who derives his or her livelihood primarily from fishing.

(l) As used in this section, "response efforts" means rendering care, assistance, or advice in accordance with the National Contingency Plan, the California oil spill contingency plan, or at the direction of the administrator, United States Environmental Protection Agency, or the Coast Guard in response to a spill or threatened spill into waters of the state.

SEC. 13. Section 25364 of the Public Resources Code is amended to read:

25364. (a) Any person required to present information to the commission pursuant to Section 25354 may request that specific

1 information be held in confidence. Information requested to be
2 held in confidence shall be presumed to be confidential.

3 (b) Information presented to the commission pursuant to Section
4 25354 shall be held in confidence by the commission or aggregated
5 to the extent necessary to ~~assure~~ *ensure* confidentiality if public
6 disclosure of the specific information or data would result in unfair
7 competitive disadvantage to the person supplying the information.

8 (c) (1) Whenever the commission receives a request to publicly
9 disclose unaggregated information, or otherwise proposes to
10 publicly disclose information submitted pursuant to Section 25354,
11 notice of the request or proposal shall be provided to the person
12 submitting the information. The notice shall indicate the form in
13 which the information is to be released. Upon receipt of notice,
14 the person submitting the information shall have 10 working days
15 in which to respond to the notice to justify the claim of
16 confidentiality on each specific item of information covered by
17 the notice on the basis that public disclosure of the specific
18 information would result in unfair competitive disadvantage to the
19 person supplying the information.

20 (2) The commission shall consider the respondent's ~~submittal~~
21 *submission* in determining whether to publicly disclose the
22 information submitted to it to which a claim of confidentiality is
23 made. The commission shall issue a written decision ~~which~~ *that*
24 sets forth its reasons for making the determination whether each
25 item of information for which a claim of confidentiality is made
26 shall remain confidential or shall be publicly disclosed.

27 (d) The commission shall not make public disclosure of
28 information submitted to it pursuant to Section 25354 within 10
29 working days after the commission has issued its written decision
30 required in this section.

31 (e) No information submitted to the commission pursuant to
32 Section 25354 shall be deemed confidential if the person submitting
33 the information or data has made it public.

34 (f) With respect to petroleum products and blendstocks reported
35 by type pursuant to paragraph (1) or (2) of subdivision (a) of
36 Section 25354 and information provided pursuant to subdivision
37 (h) or (i) of Section 25354, neither the commission nor any
38 employee of the commission ~~may~~ *shall* do any of the following:

39 (1) Use the information furnished under paragraph (1) or (2) of
40 subdivision (a) of Section 25354 or under subdivision (h) or (i) of

1 Section 25354 for any purpose other than the statistical purposes
2 for which it is supplied.

3 (2) Make any publication whereby the information furnished
4 by any particular establishment or individual under paragraph (1)
5 or (2) of subdivision (a) of Section 25354 or under subdivision (h)
6 or (i) of Section 25354 can be identified.

7 (3) Permit anyone other than commission members and
8 employees of the commission to examine the individual reports
9 provided under paragraph (1) or (2) of subdivision (a) of Section
10 25354 or under subdivision (h) or (i) of Section 25354.

11 (g) Notwithstanding any other ~~provision of law~~, the commission
12 may disclose confidential information received pursuant to
13 subdivision (a) of Section 25304 or Section 25354 to the State Air
14 Resources Board *or the administrator for oil spill response,*
15 *appointed pursuant to Section 8670.4 of the Government Code*, if
16 the state board *or the administrator, as applicable*, agrees to keep
17 the information confidential. With respect to the information ~~it~~
18 ~~receives they receive~~, the state board *and the administrator* shall
19 be subject to all pertinent provisions of this section.

20 ~~SEC. 13.~~

21 *SEC. 14.* Section 765.5 of the Public Utilities Code is amended
22 to read:

23 765.5. (a) The purpose of this section is to provide that the
24 commission takes all appropriate action necessary to ensure the
25 safe operation of railroads in this state.

26 (b) The commission shall dedicate sufficient resources necessary
27 to adequately carry out the State Participation Program for the
28 regulation of rail transportation of hazardous materials as
29 authorized by the Hazardous Material Transportation Uniform
30 Safety Act of 1990 (P.L. 101-615).

31 (c) On or before July 1, 1992, the commission shall hire a
32 minimum of six additional rail inspectors who are or shall become
33 federally certified, consisting of three additional motive power
34 and equipment inspectors, two signal inspectors, and one operating
35 practices inspector, for the purpose of enforcing compliance by
36 railroads operating in this state with state and federal safety
37 regulations.

38 (d) On or before July 1, 1992, the commission shall establish,
39 by regulation, a minimum inspection standard to ensure, at the
40 time of inspection, that railroad locomotives, equipment, and

1 facilities located in class I railroad yards in California will be
2 inspected not less frequently than every 120 days, and inspection
3 of all branch and main line track not less frequently than every 12
4 months.

5 (e) Commencing July 1, 2008, in addition to the minimum
6 inspections undertaken pursuant to subdivision (d), the commission
7 shall conduct focused inspections of railroad yards and track, either
8 in coordination with the Federal Railroad Administration or as the
9 commission determines to be necessary. The focused inspection
10 program shall target railroad yards and track that pose the greatest
11 safety risk, based on inspection data, accident history, and rail
12 traffic density.

13 (f) Commencing January 1, 2015, in addition to the inspections
14 undertaken pursuant to subdivisions (d) and (e), the commission
15 shall conduct expanded focused inspections, either in coordination
16 with the Federal Railroad Administration or as the commission
17 determines to be necessary, of bridges and grade crossings over
18 which oil is being transported and oil unloading facilities, including
19 movement within these facilities and onside storage. The expanded
20 focused inspection program shall target bridges, grade crossings,
21 and oil unloading facilities that pose the greatest safety risk, based
22 on inspection data, accident history, and rail traffic density.

23 (g) The commission may regulate essential local safety hazards
24 for the transport of oil more stringently than federal regulation,
25 pursuant to Section 20106 of Title 49 of the United States Code.

26 ~~SEC. 14.~~

27 *SEC. 15.* Section 7711 of the Public Utilities Code is amended
28 to read:

29 7711. The commission shall annually report to the Legislature,
30 on or before July 1, on sites on railroad lines in the state it finds
31 to be hazardous. The report shall include, but not be limited to,
32 information on all of the following:

33 (a) A list of all railroad derailment accident sites in the state on
34 which accidents have occurred within at least the previous five
35 years. The list shall describe the nature and probable causes of the
36 accidents, if known, and shall indicate whether the accidents
37 occurred at or near sites that the commission has determined,
38 pursuant to subdivision (b), pose a local safety hazard.

39 (b) A list of all railroad sites in the state that the commission
40 determines, pursuant to Section 20106 of Title 49 of the United

1 States Code, pose a local safety hazard. The commission may
2 submit in the annual report the list of railroad sites submitted in
3 the immediate prior year annual report, and may amend or revise
4 that list from the immediate prior year as necessary. Factors that
5 the commission shall consider in determining a local safety hazard
6 may include, but need not be limited to, all of the following:

- 7 (1) The severity of grade and curve of track.
- 8 (2) The value of special skills of train operators in negotiating
9 the particular segment of railroad line.
- 10 (3) The value of special railroad equipment in negotiating the
11 particular segment of railroad line.
- 12 (4) The types of commodities transported on or near the
13 particular segment of railroad line.
- 14 (5) The hazard posed by the release of the commodity into the
15 environment.
- 16 (6) The value of special railroad equipment in the process of
17 safely loading, transporting, storing, or unloading potentially
18 hazardous commodities.
- 19 (7) The proximity of railroad activity to human activity or
20 sensitive environmental areas.
- 21 (8) A list of the root causes and significant contributing factors
22 of all train accidents or derailments investigated.
- 23 (c) In determining which railroad sites pose a local safety hazard
24 pursuant to subdivision (b), the commission shall consider the
25 history of accidents at or near the sites. The commission shall not
26 limit its determination to sites at which accidents have already
27 occurred, but shall identify potentially hazardous sites based on
28 the criteria enumerated in subdivision (b) and all other criteria that
29 the commission determines influence railroad safety. The
30 commission shall also consider whether any local safety hazards
31 at railroad sites have been eliminated or sufficiently remediated
32 to warrant removal of the site from the list required under
33 subdivision (b).
- 34 (d) The timing, nature, and status of the remediation of defects
35 and violations of federal and state law related to the transport and
36 delivery of oil detected by the commission through its inspections.

37 ~~SEC. 15.~~

38 *SEC. 16.* Nothing in this act is intended to limit the police
39 power or other authority of a local government or government

1 regulator to enforce any other state or federal environmental law
2 or regulation.

3 ~~SEC. 16. No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution because~~
5 ~~the only costs that may be incurred by a local agency or school~~
6 ~~district will be incurred because this act creates a new crime or~~
7 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
8 ~~for a crime or infraction, within the meaning of Section 17556 of~~
9 ~~the Government Code, or changes the definition of a crime within~~
10 ~~the meaning of Section 6 of Article XIII B of the California~~
11 ~~Constitution.~~

12 ~~SEC. 17. This act shall not become operative unless Senate~~
13 ~~Bill 861 of the 2013–14 Regular Session is enacted and becomes~~
14 ~~operative.~~